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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 12TH DAY OF FEBRUARY 1998

B E F O R E

THE HON'BLE MR. JUSTICE S.R. VENKATESHA MURTHY

WRIT PETITION NOS.27174/91 C/W27175/91

BETWEEN:

Smt. Sharadamma,
W/o N.Sreenivasa Rao,
Aged about 55 year,
R/o K.Bujanga Rao's House,
Kadanur village,
Doddaballapura Taluk,
Bangalore-District.

(By Sri P.M.Nanja Reddy, Adv.)

...PETITIONER
COMMON IN BOTH

AND:

1. The State of Karnataka,
represented by Secretary,
Revenue department,
Vidhana Soudha,
Bangalore-1.

2. N.G.Sudarshan Rao
S/o N.Gopala Rao,
Kalva Village,
Narasapura Hobli,
Kolar Taluk.

3. Sri Venugopala Swamy Diety,
Represented by Tahsildar,
Muzarai Officer,
Kolar Taluk,
Kolar.

...RESPONDENTS

(By Sri K.Prabhakar, Adv. for R2,
Smt. M.R.Shanthakumari, HCGP for
R1)

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This is a writ petition which was earlier filed as a Civil Petition under Section 151 of CPC r/w under Section 17 of the K.L.R Act R/2 Articles 226 and 227 of the Constitution of India, that for the reasons stated in the accompanying the affidavit that this Hon'ble Court be pleased to consider this Application and the Appeal No.DLRA.29/89 filed before the Land Reforms Appellate Authority, Kolar may be treated as a writ petition, in view of amendment of Sec.17 of the Land Reforms Act.

This writ petition coming on for preliminary hearing in 'B' Group this day, the Court made the following :-

O R D E R

These writ petitions are consolidated for the purpose of disposing by a common order. In W.P.No. 27174/91 the application filed by the petitioner in Form No.1 for occupancy rights numbered as LRF/INA/88/ 87-88 was rejected by the Land Tribunal by the order dated 27.2.1989 . An appeal in DLRA.29/89 was filed before the Land Reforms Appellate Authority. During the pendency of the appeal, Land Reforms Appellate Authority stood abolished. It is admitted that the applications for additional evidence was filed and allowed by the Land Reforms Appellate Authority before any adjudication of the appeal took place.

2. The petitioner in W.P.No.27175/91 filed an application for conferment of occupancy rights and the same was registered as LRF.DVS.981/79-80, 1584/79-80, 1583/79-80, 229/79-80 and 221/79-80 by an order dated 1.2.1982. The Land Tribunal granted occupancy rights

in favour of the petitioner. The petitioner challenged the order of the Land Tribunal by filing the petition No.1326/87 and on the constitution of the Land Reforms Appellate Authority the writ petition was transferred to the same and registered as DLR.AR.60/88. Before the Land Reforms Appellate Authority permission to tender additional evidence was sought before any matter could be clubbed. Though some evidence was recorded, the Land Reforms Appellate Authority was abolished.

3. It is clear from the above that the Land Reforms Appellate Authority found that the order impugned could not be properly dealt with without additional evidence being recorded. Consequently, the orders of the Tribunal in both the cases deserves to be set aside and the matter remitted for fresh enquiry in accordance with law.

4. Having regard to the decision of this Court in ILR 1992(2) KAR 1827 SHRI KUDLI SRINGERI MAHA SAMSTHANAM-Vs-STATE OF KARNATAKA the amendment to Karnataka (Religious and Charitable) Inams Abolition Act, 1955 was found void, The Land Tribunal could not adjudicate the matters on the claim made by the petitioners herein. It is the Deputy Commissioner who is empowered to hear the matter and decide it in accordance with law. The petitions filed in these cases would have to be transmitted by the Land Tribunal to the Deputy Commissioner, Kolar for being

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dealt with and dispose of in accordance with law.
It is needless to state that the parties would be
entitled to urge all the conditions which are
legally open to them in respect of the claims made
by them.

5. The writ petitions are accordingly, allowed.
The records be transmitted forthwith to the concerned
Deputy Commissioner and the Land Tri-bunal respectively.

Sd/-
JUDGE

mvs/